

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HONORABLE LARRY ALAN BURNS, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
 PLAINTIFF,) CASE NO. 07CR02898-LAB
)
 VS.)
) SAN DIEGO, CALIFORNIA
 JORGE DANIEL RAMIREZ-ARMAS,) MARCH 24, 2008
 VERONICA QUINTERO-NAVARRO,) 9:30 A.M.
)
 DEFENDANTS.)
 _____)

REPORTER'S TRANSCRIPT

ACCEPT PLEA WITH P.O. REPORT

APPEARANCES:

FOR THE GOVERNMENT:

KAREN P. HEWITT, U.S. ATTORNEY
BY: CALEB E. MASON, ESQ.
ASSISTANT U.S. ATTORNEY
880 FRONT STREET
SAN DIEGO, CA 92101

FOR DEFENDANT (1):

LAW OFFICE OF MICHAEL CROWLEY
BY: MICHAEL L. CROWLEY, ESQ.
550 WEST C STREET
SAN DIEGO, CA 92101

FOR DEFENDANT (2):

FRANK & MILCHEN
BY: HOWARD B. FRANK, ESQ.
136 REDWOOD STREET
SAN DIEGO, CA 92103

COURT REPORTER:

EVA OEMICK
OFFICIAL COURT REPORTER
UNITED STATES COURTHOUSE
940 FRONT STREET, STE. 2190
SAN DIEGO, CA 92101
TEL: (619) 615-3103

SAN DIEGO, CALIFORNIA - MONDAY, MARCH 24, 2008 - 9:30 A.M.

THE CLERK: CALLING NO. 3 ON THE CALENDAR, 07CR2898,
UNITED STATES OF AMERICA VERSUS JORGE DANIEL RAMIREZ-ARMAS AND
VERONICA QUINTERO-NAVARRO.

COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE
RECORD.

MR. MASON: GOOD MORNING, YOUR HONOR.

CALEB MASON FOR THE UNITED STATES.

MR. CROWLEY: MICHAEL CROWLEY ON BEHALF OF
MR. RAMIREZ, WHO WILL BE PRESENT BEFORE YOUR HONOR.

THE COURT: GOOD MORNING, MR. CROWLEY AND MR. FRANK.

MR. FRANK: HOWARD FRANK APPEARING ON BEHALF OF
VERONICA QUINTERO, WHO IS IN CUSTODY AND WILL BE BEFORE YOUR
HONOR SHORTLY.

FOR THE RECORD, MS. QUINTERO IS NOW BEFORE THE
COURT.

MR. CROWLEY: AS IS MR. RAMIREZ.

THE COURT: IN EACH OF THESE CASES, JUDGE MAJOR SENT
ME A REPORT AND RECOMMENDATION URGING ME TO ACCEPT EACH
DEFENDANT'S PLEA TO IMPORTING METHAMPHETAMINE. SHE SAYS THAT
THE PLEAS WERE ENTERED KNOWINGLY, VOLUNTARILY AND
INTELLIGENTLY.

MR. FRANK, ON BEHALF OF YOUR CLIENT, IS THERE ANY
OBJECTION TO ME ACTING AFFIRMATIVELY ON THE REPORT AND
RECOMMENDATION AND ACCEPTING HER PLEA?

1 MR. FRANK: NO, YOUR HONOR.

2 THE COURT: MR. CROWLEY, AS TO MR. RAMIREZ,
3 LIKewise, IS THERE ANY OBJECTION?

4 MR. CROWLEY: NO OBJECTION, YOUR HONOR.

5 THE COURT: IN EACH CASE, I ADOPT JUDGE MAJOR'S
6 REPORT AND RECOMMENDATION. I EMBRACE AND ADOPT HER FINDINGS.
7 I FIND THE PLEAS WERE TAKEN IN COMPLIANCE WITH RULE 11, AND I
8 DO ACCEPT THEM.

9 WITH RESPECT TO MS. QUINTERO, I'VE READ THE
10 PRE-SENTENCE REPORT.

11 HAVE YOU HAD A CHANCE TO GO OVER THAT WITH YOUR
12 CLIENT, MR. FRANK?

13 MR. FRANK: I HAVE, YOUR HONOR.

14 THE COURT: I'VE LOOKED AT THE FOLLOWING ADDITIONAL
15 DOCUMENTS. THERE IS PLEA AGREEMENT IN THE CASE, WHICH I'VE
16 READ AND CONSIDERED. THERE'S A SENTENCING MEMORANDUM FILED BY
17 MR. FRANK, AND IT INCLUDES A REQUEST FOR DOWNWARD DEPARTURES.
18 THE GOVERNMENT HAS FILED A SENTENCING SUMMARY CHART, AS HAS
19 MR. FRANK. I HAVE LOOKED AT ALL OF THAT.

20 IS THERE ANY OTHER DOCUMENTATION I SHOULD HAVE
21 CONSIDERED IN CONNECTION WITH SENTENCING, MS. QUINTERO?

22 MR. FRANK: NOTHING ELSE HAS BEEN SUBMITTED, YOUR
23 HONOR.

24 THE COURT: AS TO MR. RAMIREZ, MR. CROWLEY, I HAVE
25 LIKewise LOOKED AT THE PRE-SENTENCE REPORT.

1 HAVE YOU HAD A CHANCE TO GO OVER THAT WITH HIM?

2 MR. CROWLEY: I HAVE, YOUR HONOR.

3 THE COURT: I LOOKED AT HIS PLEA AGREEMENT AS WELL.

4 YOU AND THE GOVERNMENT FILED SENTENCING SUMMARY
5 CHARTS. I'VE REVIEWED BOTH OF THE THOSE. IN ADDITION, YOU
6 FILED A SENTENCING MEMORANDUM ON BEHALF OF MR. RAMIREZ. IT
7 INCLUDED A NUMBER OF PRAISEWORTHY LETTERS AND LETTERS THAT
8 GAVE SOME ADDITIONAL CONTEXT TO HIS LIFE AND CIRCUMSTANCES. I
9 HAVE READ AND CONSIDERED THOSE.

10 IS THERE ANYTHING ELSE?

11 MR. CROWLEY: I DID FILE AN OBJECTION TO THE
12 PRE-SENTENCE REPORT JUST AS TO A SINGLE --

13 THE COURT: I DIDN'T RECITE THAT. LET ME MAKE SURE
14 THAT I SAW IT AND CONSIDERED IT.

15 MR. CROWLEY: I DO HAVE A COPY.

16 THE COURT: DID IT HAVE TO DO WITH THE CRIMINAL
17 HISTORY REPORT?

18 MR. CROWLEY: NO. THE ROLE, MINOR ROLE.

19 THE COURT: I'M UNSURE WHETHER I RECEIVED THAT. I
20 DON'T RECALL IT. YOU MAY -- IF YOU HAVE IT, YOU MAY GIVE A
21 COPY TO THE CLERK. I'LL CERTAINLY CONSIDER IT NOW.

22 I'VE READ AND CONSIDERED THE OBJECTION. PROBATION
23 FOUND NO BASIS FOR MINOR ROLE, ALTHOUGH THE GOVERNMENT HAS
24 RECOMMENDED THAT AS PART OF ITS PLEA AGREEMENT IN THE CASE.

25 WE'RE PUTTING THE CART BEFORE THE HORSE A LITTLE

1 BIT, MR. CROWLEY. BUT IN MY OWN NOTES AND CONSIDERATION OF
2 THE MATTER, I FOUND MYSELF IN AGREEMENT WITH PROBATION THAT
3 THIS IS NOT A MINOR ROLE.

4 MERE COURIER DOESN'T ADD ANYTHING BUT RHETORIC TO
5 THE ANALYSIS, FROM MY PERSPECTIVE. I UNDERSTAND THAT THE
6 PERSON WHO TRANSPORTS DRUGS IS NOT FORECLOSED FROM GETTING A
7 MINOR ROLE EVEN IN AN IMPORTATION CASE. I UNDERSTAND THAT.
8 BUT IT'S HARDLY INEXORABLE, IF YOU TAKE DRUGS ACROSS FROM
9 MEXICO INTO THE UNITED STATES, THAT NECESSARILY YOUR ROLE IS
10 SIGNIFICANTLY LESS CULPABLE THAN THE AVERAGE PARTICIPANT,
11 WHICH IS THE STANDARD UNDER THE GUIDELINES.

12 I ALSO, LOOKING TO THE FACTS OF THIS CASE, JUST
13 DON'T SEE A MINOR ROLE. HERE'S A FELLOW THAT'S IN THIS UP TO
14 HIS HIPS. HE MAKES A NUMBER OF RUNS, TEST RUNS. HE'S MADE
15 SEVERAL TRIPS ACROSS THE BORDER, IF I'M TO BELIEVE WHAT I READ
16 IN THE CO-DEFENDANT'S SENTENCING PAPERS. THROUGH VIOLENCE AND
17 INTIMIDATION, HE GOT HER INVOLVED.

18 MR. CROWLEY: I WOULD OBJECT TO ANY USE OF THAT
19 LAST PART.

20 THE COURT: HAVE YOU SEEN THOSE PAPERS?

21 MR. CROWLEY: I HAVE NOT SEEN ANY PAPERS, NO, OTHER
22 THAN I KNOW OF THE ALLEGATIONS.

23 THE COURT: I WILL GIVE HIM A CHANCE TO BE
24 CONFRONTED BY THE INFORMATION AND LET YOU RESPOND TO THAT AS
25 WELL. I CAN HARDLY SENTENCE HER WHEN MR. FRANK ASKED ME TO

1 FIND A MITIGATING ROLE IN HER CASE AND CREDIT HER ACCOUNT AND
2 YET IGNORE IT WHEN IT COMES TO HIM. I TAKE YOUR POINT THAT
3 HE'S ENTITLED TO BE CONFRONTED BY THAT AND RESPOND TO IT.

4 MR. CROWLEY: I WOULD REQUEST AN EVIDENTIARY HEARING
5 CONCERNING --

6 THE COURT: WE MAY GET TO THAT. BUT EVEN LEAVING
7 THAT ASIDE, MR. CROWLEY, I JUST DON'T SEE A MINOR ROLE ON
8 THIS. I THINK PROBATION HAS GOT IT RIGHT. I THINK THAT IN
9 THIS CASE, IT'S A CLASSIC INSTANCE OF USING THE GUIDELINES TO
10 TRY TO EFFECT A RESULT RATHER THAN ANY MEANINGFUL ATTEMPT TO
11 APPLY THEM FAITHFULLY AND APPLY THAT STANDARD OF SIGNIFICANTLY
12 LESS CULPABLE.

13 I DON'T MEAN THIS PERSONALLY TO THE PROSECUTOR, BUT
14 I THINK HE'D HAVE A HARD TIME STANDING IN FRONT OF AN
15 ASSEMBLED GROUP AND SAYING, "WHAT THIS GUY DID THAT MAKES HIM
16 SIGNIFICANTLY LESS CULPABLE THAN THE AVERAGE PARTICIPANT IN
17 THIS WITH TEN PRIOR RUNS AND INVOLVED IN THIS AND THIS AMOUNT
18 OF METHAMPHETAMINE" -- WHAT'S MINOR ABOUT THIS?

19 WE COULD GO DOWN ON FRONT AND BROADWAY AND CATCH THE
20 FIRST TEN PEOPLE GETTING OFF THE BUS AND SAY, "HERE ARE THE
21 CIRCUMSTANCES. HOW WOULD YOU CHARACTERIZE THIS?" I DARE SAY
22 NO ONE WOULD SAY IT'S MINOR OR THAT THERE IS SOME KIND OF
23 MITIGATING ROLE INVOLVED HERE.

24 ANYWAY, I OVERRULE THE OBJECTION. I'M NOT GOING TO
25 FORECLOSE YOU FROM ARGUING IT FURTHER AND TRYING TO PERSUADE

1 ME. I LOOKED AT IT. I WENT OVER THE PROBATION REPORT
2 CAREFULLY AND MADE NOTES TO MYSELF ABOUT THE FACTS AND
3 CIRCUMSTANCES. I HAVE TRIED FAITHFULLY TO APPLY THEM.

4 YOU'VE BEEN HERE BEFORE. IF IT'S UP TO TWO POINTS,
5 MR. CROWLEY, I GO ALONG WITH IT. I'M BUFFETED BY THE NEED FOR
6 PREDICTABILITY IN PLEA AGREEMENTS. BUT WHEN THE EFFECT OF
7 PHONY MINOR ROLE ADJUSTMENT OR WHAT I FIND TO BE AN
8 ILLEGITIMATE MINOR ROLE ADJUSTMENT AFFECTS MORE THAN A
9 TWO-POINT REDUCTION IN THE GUIDELINE LEVEL, THEN I RESERVE THE
10 RIGHT TO LOOK AT IT, MAKE AN INDEPENDENT JUDGMENT, AND APPLY
11 THE STANDARD. I'VE TRIED TO DO THAT HERE. IT DOES NOT LEAD
12 ME TO THE SAME CONCLUSION THAT THE GOVERNMENT RECOMMENDS.

13 SO I'M HAPPY TO HEAR FROM YOU. I DO OVERRULE THE
14 OBJECTION.

15 MAYBE I SHOULD HEAR FROM MR. FRANK AND MS. QUINTERO
16 FIRST. BECAUSE, AS I SAID, I THINK IF THERE'S A NEED FOR A
17 HEARING, WE'LL GET TO THAT.

18 MR. FRANK.

19 MR. FRANK: YOUR HONOR, THANK YOU.

20 YOUR HONOR KNOWS FROM READING THE DOCUMENTS THAT THE
21 COURT ALLUDED TO THAT MS. QUINTERO IS AN INDIVIDUAL WHO HAS NO
22 PRIOR RECORD. HER ROLE IN THIS CASE WAS THAT OF A PASSENGER
23 IN A VEHICLE THAT CONTAINED A SUBSTANTIAL AMOUNT OF CONTRABAND
24 ATTEMPTING TO ENTER THE UNITED STATES.

25 THE COURT: ON MORE THAN ONE OCCASION.

1 MR. FRANK: YES, YOUR HONOR, BY HER OWN ADMISSION.
2 AND I THINK HER OWN ADMISSION IS CONSISTENT WITH NOT ONLY A
3 TOTAL ACCEPTANCE OF RESPONSIBILITY, BUT GENUINE REMORSEFULNESS
4 FOR HAVING BEEN INVOLVED TO THAT EXTENT, HOWEVER IT'S
5 CHARACTERIZED.

6 THE COURT: I SEE IT IN HER CASE. I THINK PROBATION
7 HAS RECOMMENDED IT, ALSO.

8 MR. FRANK: THEY HAVE. --

9 THE COURT: I'VE ANALYZED IT IN HER CASE. I THINK
10 NOTWITHSTANDING THAT IT WAS THE SECOND TIME -- AT LEAST THE
11 SECOND TIME THAT SHE WAS INVOLVED, THAT HER ROLE WAS LIMITED
12 TO ESSENTIALLY WINDOW DRESSING TO ALLAY THE SUSPICIONS OF THE
13 BORDER GUARDS BY HAVING A SECOND PERSON IN THERE. I DO FIND
14 THAT TO BE SUBSTANTIALLY LESS CULPABLE THAN THE OTHER KNOWN
15 PARTICIPANTS. I'M PREPARED TO FIND A MINOR ROLE IN HER CASE.

16 NOW, I THINK IT'S FAIR BECAUSE, AS I TOLD
17 MR. CROWLEY, YOU'VE MADE ALLEGATIONS THAT SHE WAS KEPT
18 INVOLVED IN THIS BY AN ABUSIVE RELATIONSHIP AND, TO SOME
19 EXTENT, BY THREATS AND PHYSICAL VIOLENCE BY THE DEFENDANT. I
20 READ THAT. I TOOK IT INTO CONSIDERATION IN NOT ONLY
21 EVALUATING HER CASE, BUT ALSO IN THE RECOMMENDATION FOR ROLE
22 IN HIS CASE.

23 I THINK IT'S INCUMBENT UPON YOU TO MAKE SOME
24 PROFFERS. AND IF THOSE THINGS ARE DISPUTED, THEN WE MIGHT
25 HAVE TO HAVE A HEARING ON THAT BECAUSE IT IS -- IT DOES INFORM

1 MY THINKING ON THIS ISSUE OF ROLE INSOFAR AS MR. RAMIREZ IS
2 CONCERNED.

3 MR. FRANK: YOUR HONOR, THE REFERENCES I MADE TO
4 THAT ISSUE IN MY SENTENCING MEMORANDUM AND MY MOTION FOR
5 DOWNWARD DEPARTURE WAS THE INFORMATION THAT I OBTAINED
6 PRIMARILY FROM THE PROBATION REPORT. YOUR HONOR WILL RECALL
7 SEEING THE SAME ALLEGATIONS IN THE PROBATION REPORT AS WERE IN
8 THAT ONE PORTION OF MY MOTION FOR DOWNWARD DEPARTURE.

9 I WOULD SUBMIT THAT ASIDE FROM THE ISSUES RELATED TO
10 THE RELATIONSHIP WITH THE CO-DEFENDANT, YOUR HONOR KNOWS OF
11 THE SEXUAL ABUSE THAT MS. QUINTERO WAS A VICTIM OF IN HER
12 EARLIER DAYS AS A YOUNGSTER FROM VARIOUS FAMILY MEMBERS. AND
13 I SUBMIT, AS I INDICATED IN MY MEMORANDUM, THAT THE
14 COMBINATION, YOUR HONOR, SURELY WERE CONTRIBUTING FACTORS IN
15 HER DECISION TO PLAY THE ROLE THAT SHE DID IN THIS MATTER AND,
16 MORE IMPORTANTLY, I THINK IN COMBINATION WITH THE OTHER
17 FACTORS THAT I ADDRESSED IN MY MEMORANDUM, ABSOLUTELY MAKE IT
18 APPROPRIATE FOR AN ADDITIONAL DOWNWARD DEPARTURE FOR A
19 COMBINATION OF FACTORS.

20 THE COURT: HAVE YOU HAD ACCESS, MR. CROWLEY, TO THE
21 PROBATION REPORT FOR THE CO-DEFENDANT?

22 MR. CROWLEY: MR. FRANK HAS MADE THAT AVAILABLE.

23 THE COURT: IN PARTICULAR, THE ALLUSION THAT HE
24 MAKES IN THE SECOND-TO-LAST PARAGRAPH ON PAGE 8 OF
25 MS. QUINTERO'S PROBATION REPORT. SHE OUTLINES A HISTORY OF

1 ABUSE AT THE HANDS OF MR. RAMIREZ. THOSE THINGS, I THINK, ARE
2 RELEVANT TO THIS WHOLE ISSUE OF ROLE. IT HAS A TENDENCY IN
3 REASON TO AFFECT MY THINKING ON WHO IS IN CHARGE HERE AND WHO
4 MAY BE ACTING AT THE DIRECTION OF SOMEONE ELSE IN A
5 SUBSERVIENT POSITION, AND THAT'S THE ROLE DETERMINATION.

6 THAT'S IT AS FAR AS THAT ASPECT OF ROLE. AS I TOLD
7 YOU, THERE ARE OTHER THINGS STANDING ALONE INDEPENDENT OF HIS
8 RELATIONSHIP WITH MS. QUINTERO THAT LEAD ME TO REJECT THE
9 MINOR ROLE RECOMMENDATION IN HIS CASE. IF YOU THINK THERE'S
10 ANY OF THAT THAT IS CONTESTED, THEN I THINK WE PROBABLY SHOULD
11 HAVE A HEARING ON IT.

12 MR. CROWLEY: IT'S ALL CONTESTED. I HAVE TALKED TO
13 MY CLIENT ABOUT IT. I'VE HANDLED MANY DOMESTIC VIOLENCE CASES
14 ON THE STATE SIDE. AND, OF COURSE, WE INVESTIGATE FROM ALL
15 ANGLES BECAUSE THEY HAVE LOTS OF DIFFERENT DYNAMICS TO THEM.

16 I DID NOT UNDERTAKE TO DO THAT IN THIS PARTICULAR
17 CASE FRANKLY HOPING THAT THE COURT WOULD SAY "OKAY. THAT'S A
18 CONCERN FOR HER," BUT THEN WOULDN'T USE IT AGAINST MY CLIENT.
19 IF I'M MISTAKEN, THEN I WOULD REQUEST A CONTINUANCE TO BE ABLE
20 TO INVESTIGATE THAT.

21 THE COURT: HOW LONG DO YOU NEED?

22 MR. CROWLEY: I WOULD SAY ABOUT FOUR WEEKS TO BE
23 ABLE TO INVESTIGATE. IT'S OUT OF TOWN, THE ISSUES, THE PEOPLE
24 THAT WE WOULD TALK TO. IT'S NOT LIKE IT'S A LOCAL DOMESTIC
25 VIOLENCE CASE, DOMESTIC VIOLENCE ISSUE. AND A LOT OF WHAT WE

1 DEAL WITH IN DOMESTIC VIOLENCE CASES, OF COURSE, ARE WHERE THE
2 INCENTIVES TO GIVE CERTAIN TYPES OF INFORMATION COME ABOUT.
3 AND OFTENTIMES WHEN IT COMES DOWN TO TRIAL, IT'S A LITTLE BIT
4 DIFFERENT THAN WHAT IS SAID --

5 THE COURT: MR. FRANK, I HAVE TO BE HONEST. IT DOES
6 AFFECT MY THINKING AS TO BOTH DEFENDANTS. I CAN SEE HER IN A
7 SITUATION WHERE IT MIGHT BE AGAINST HER BETTER JUDGMENT TO GO
8 ALONG WITH HIM IN THIS ENTERPRISE EVEN ALBEIT IT AS A
9 PASSENGER. BUT BASED ON A HISTORY OF ABUSE, SHE'S AFRAID TO
10 SAY NO TO HIM.

11 NOW, DOES THAT AFFECT MY JUDGMENT ABOUT WHETHER SHE
12 HAD A MINOR ROLE IN THE CASE? OF COURSE IT DOES. DOES IT
13 AFFECT MY JUDGMENT ABOUT WHETHER HE'S ENTITLED TO A MINOR ROLE
14 ADJUSTMENT AS HE'S ADVOCATING? OF COURSE IT DOES. IF IT'S
15 DISPUTED STUFF, I THINK I NEED TO GIVE MR. RAMIREZ, THROUGH
16 HIS COUNSEL, AN OPPORTUNITY TO DISPUTE IT. THEN I'LL MAKE A
17 FINAL DECISION.

18 IT AFFECTS BOTH YOUR APPLICATION, WHICH I'M INCLINED
19 TO GRANT FOR MINOR ROLE REDUCTION, AND MR. CROWLEY'S, WHICH
20 I'M INCLINED NOT TO GRANT. I SUPPOSE I COULD DO THIS: I
21 SUPPOSE I COULD PARSE IT AND SAY, "WE'LL PUT THAT ASIDE.
22 THERE'S STILL ENOUGH HERE FOR ME TO DENY MINOR ROLE." BUT IT
23 HAS AFFECTED MY THINKING IN READING THAT. IT'S NECESSARILY
24 PART OF THE CALCULUS ON WHO IS CULPABLE HERE AS BETWEEN THESE
25 DEFENDANTS AND HOW MUCH.

1 MR. FRANK: I UNDERSTAND WHAT THE COURT IS SAYING.
2 BUT IT WOULD SEEM TO ME IN THIS UNIQUE SITUATION WHERE
3 MS. QUINTERO IS A PASSENGER AS OPPOSED TO THE DRIVER, THAT
4 THAT PUTS HER IN A DIFFERENT SITUATION THAN THE COURT NORMALLY
5 ADDRESSES IN THE TYPICAL BORDER BUST CASE. AND REGARDLESS OF
6 THE UNDERLYING VERACITY OF THAT ASPECT OF THE CASE, IT SEEMS
7 TO ME THAT SHE LEGITIMATELY SHOULD RECEIVE CONSIDERATION FOR
8 MINOR ROLE.

9 THE COURT: HERE'S THE WILD CARD, THOUGH: SHE DID
10 IT TWICE. SHE WAS A PASSENGER TWICE, NOT ONCE. IF IT'S A
11 ONE-TIME DEAL THAT SOMEBODY'S ALONG AS A PASSENGER, I GET IT.
12 BUT YOU SUCCESSFULLY CROSS, AND THEN YOU SAY "I'M ONBOARD
13 AGAIN. I'LL BE A PASSENGER AGAIN AND TRY TO ALLAY IT," THEN
14 IT'S MORE QUESTIONABLE, I THINK, WHETHER THE PERSON WHO'S GOT
15 A TRACK RECORD OF HELPING TO BRING DOPE IN AND ASSISTS A
16 SECOND TIME SHOULD BE CONSIDERED TO HAVE A SIGNIFICANTLY
17 DIMINISHED ROLE.

18 NOW, IF I CONSIDER THAT SHE'S INTIMIDATED BY THIS
19 FELLOW AND MAY NOT HAVE A FULL RANGE OF CHOICE IN THE CASE,
20 THEN THAT MAY EXPLAIN WHY SHE'S ALONG A SECOND TIME. AND WE
21 MAY BE BACK AT SQUARE ONE WHERE I SAY, "YOU'RE RIGHT. HER
22 ROLE IS SIGNIFICANTLY DIMINISHED."

23 I'M JUST TELLING YOU THE INFORMATION HAS COME IN,
24 AND I READ EVERYTHING. I GIVE IT CONSIDERATION. I LOOK AT IT
25 IN THE GOOD FAITH THAT IT WAS OFFERED. BUT IF I DO THAT HERE,

1 THESE ARE THE INFERENCES AND IMPLICATIONS THAT ARISE FROM IT.
2 IF IT HAPPENED THIS WAY, THEN SHE SHOULD BE PREPARED TO TELL
3 ME IF IT HELPS HER. BUT IF IT'S TRUE, THEN SHE'S GOT NOTHING
4 TO WORRY ABOUT, AT LEAST WITH ME.

5 MR. FRANK: I UNDERSTAND. AND ALTHOUGH MS. QUINTERO
6 VERY MUCH WANTED TO PROCEED THIS MORNING, IT WOULD SEEM, BASED
7 ON THE CONCERNS THE COURT HAS, THAT IT WOULD BE IN HER BEST
8 INTEREST TO ABIDE BY THE COURT'S INCLINATION AND TO GO ON WITH
9 A CONTINUANCE.

10 I WOULD MAKE JUST ONE OBSERVATION, HOWEVER, IF I
11 CAN, BRIEFLY, YOUR HONOR. THAT IS THE COMMENT THAT YOUR HONOR
12 JUST MADE IS SOMEWHAT TROUBLING TO ME IN THAT ONE OF THE
13 FACTORS YOUR HONOR IS CONSIDERING IS THE FACT THAT THERE MAY
14 HAVE BEEN MORE THAN ONE OCCASION THAT MS. QUINTERO ACCOMPANIED
15 THE CO-DEFENDANT. THAT'S INFORMATION THAT'S AVAILABLE BECAUSE
16 OF HER HONESTY.

17 AND IT'S REALLY TROUBLESOME TO HAVE A DEFENDANT IN A
18 POSITION OF BEING TOTALLY REMORSEFUL, COMPLETELY ACCEPTING
19 RESPONSIBILITY, AND, IN DOING SO, FOLLOWING COUNSEL'S ADVICE
20 AND BEING TRUTHFUL WITH THE PROBATION OFFICER AND THEN FACING
21 THE POSSIBILITY OF EITHER ADDITIONAL PUNISHMENT OR NOT GETTING
22 A BENEFIT SHE OTHERWISE WOULD FOR ONE REASON, FOR BEING
23 HONEST, THAT'S TROUBLESOME.

24 THE COURT: IT'S NOT REALLY FOR ONE REASON. IT
25 WOULD BE AN IRONY, INDEED, IF I PUNISHED HER FOR BEING HONEST.

1 I'M SUPPOSED TO LOOK AT THE REAL OFFENSE HERE, WHAT REALLY
2 HAPPENED. AND TO SAY, "WELL, IT'S WAY MORE AGGRAVATING,
3 JUDGE, THAN IT APPEARS FROM THIS ONE INCIDENT, BUT YOU CAN'T
4 CONSIDER ANY OF THAT BECAUSE THE DEFENDANTS TOLD THAT IN THEIR
5 PROBATION INTERVIEWS."

6 NOW, I'M BUFFETED TO SOME EXTENT. I DON'T WANT TO
7 PUNISH HER FOR COMING CLEAN ON THINGS THAT WERE OTHERWISE NOT
8 KNOWN. I'M NOT INCLINED TO DO THAT. I NOTE THAT SHE'S GIVEN
9 FULL CREDIT FOR ACCEPTANCE OF RESPONSIBILITY, AND I THINK
10 THERE'S EVEN A --

11 ISN'T THERE A FAST TRACK RECOMMENDATION HERE?

12 MR. MASON: YES, YOUR HONOR.

13 THE COURT: WHICH, IN PART, TAKES INTO CONSIDERATION
14 HOW FORTHCOMING SHE IS. SO I THINK SHE IS GETTING CREDIT FOR
15 THOSE THINGS. AS A PRACTICAL MATTER, I'LL TELL YOU I
16 APPRECIATE THE CONCERN YOU REACHED THAT IT CAME FROM HER. AND
17 I'LL TAKE THAT INTO CONSIDERATION.

18 IN THE END, THOUGH, MR. FRANK, THE ALTERNATIVE IS
19 NOT FOR ME TO IGNORE THE TRUE SCOPE OF WHAT HAPPENED HERE AND
20 TO CHARACTERIZE IT AS IF I DON'T KNOW WHAT ALL THE FACTS ARE.
21 I DO. I THINK IT'S GOOD LAWYERING, AS A MATTER OF FACT. AND
22 I THINK YOU KNOW THAT WITH ME, AT LEAST, TO HAVE THE CLIENT TO
23 AS FORTHCOMING AS POSSIBLE. AND I THINK IN THE END, IT ONLY
24 HELPS A CLIENT HERE WHO'S LIKE THAT RATHER THAN ONE THAT
25 STICKS TO A SCRIPT AND SAYS "I'M ONLY GOING TO ADMIT THE

1 MINIMUM ELEMENTS" AND THEN COMES IN AND ASKS ME FOR A ROLE
2 ADJUSTMENT, FOR EXAMPLE. I DON'T GET THAT. THAT'S NOT
3 CONSISTENT WITH ASKING ME TO EXERCISE DISCRETION FAVORABLY.

4 SO I TAKE YOUR POINT. SHE'S NOT GOING TO BE
5 PUNISHED FOR BEING FORTHCOMING. AT THE SAME TIME, I'M NOT
6 GOING TO IGNORE THE ENTIRE SCOPE OF THIS THING AND LOOK AT IT
7 AS IF IT'S A ONE-TIME DEAL WHEN EVERYBODY KNOWS IT WAS NOT A
8 ONE-TIME DEAL.

9 SO THAT'S WHERE WE'RE AT. IF SHE -- I UNDERSTAND
10 SHE WANTS TO GO FORWARD TODAY. I THINK MR. CROWLEY'S REQUEST
11 IS REASONABLE FOR A PERIOD OF TIME TO EXAMINE THIS. I'M
12 CONCERNED ONLY WITH THE SECOND-TO-THE-LAST PARAGRAPH ON PAGE 8
13 AND THE ALLEGATIONS THERE. THEY'RE LARGELY REPEATED.

14 MR. FRANK, DO YOU HAVE ANY OBJECTION TO SHOWING HIM
15 THE SENTENCING BRIEF YOU FILED ON BEHALF OF MS. QUINTERO?

16 MR. FRANK: ABSOLUTELY NOT.

17 MR. CROWLEY: THAT WAS FILED, ALSO. IF I CAN FOR A
18 MOMENT, THE COURT APPEARS TO BE FOCUSING THIS ISSUE ON THE
19 MINOR ROLE DETERMINATION.

20 THE COURT: THAT'S HOW I SEE IT. IT'S NOT
21 DISPOSITIVE, BUT IT INFORMS MY THINKING ON THIS. I THINK
22 THAT'S THE STANDARD FOR A HEARING UNLESS I'M PREPARED TO TELL
23 YOU AND MR. RAMIREZ "IT'S LIKE A DROP OF INK IN A GALLON OF
24 MILK. I'LL SHAKE THIS UP AND IT WILL BE ALL GONE AND I WON'T
25 REMEMBER THAT WE DROPPED THAT INK IN THERE." I CAN'T DO THAT.

1 THAT'S PART OF IT.

2 MR. CROWLEY: LET ME SAY THIS FOR THE MOMENT: I
3 CERTAINLY, OF COURSE, SEE A DISTINCTION BETWEEN THE TWO
4 DEFENDANTS IN THIS CASE. THE COURT HAS ELUCIDATED REASONS WHY
5 MR. RAMIREZ SHOULD NOT GET THE MINOR ROLE. I PERSONALLY
6 DISAGREE WITH THAT. IT'S BROADER THAN THE COURT NARROWS IT.

7 BUT THERE ARE SEPARATE REASONS. IF WE CAN
8 COMPARTMENTALIZE THIS ISSUE, QUITE FRANKLY, IN THINKING ABOUT
9 THE BIGGER PICTURE, BOTH, I BELIEVE, DESPITE ALLEGATIONS,
10 STILL TALK VERY FONDLY ABOUT EACH OTHER. THERE'S STILL A
11 RELATIONSHIP THERE.

12 I'M NOT EXCITED ABOUT THE FACT OF DESTROYING THAT
13 IF, IN FACT, IT'S STILL THERE, WHICH IS BOTH -- AT LEAST MY
14 CLIENT HAS ASSURED ME OF THAT, AND I BELIEVE MR. FRANK.

15 IF THE DETERMINATION CONCERNING THAT LAST PARAGRAPH
16 IS ONLY TO THE MINOR ROLE, WITHOUT WAIVING MY CLIENT'S RIGHTS
17 CONCERNING THE ADDITIONAL ISSUES, WE'D BE WILLING TO ACCEPT
18 THAT PART OF THE COURT'S DETERMINATION, BUT WITH THE CAVEAT --
19 I'M CONCERNED, IF THE COURT ACCEPTS THESE ALLEGATIONS WHICH
20 ARE IN DISPUTE, WHEN WE TALK ABOUT THE 3553 FACTORS, FRANKLY,
21 MY CLIENT HERE -- AS PART OF MR. FRANK'S ARGUMENT HERE THAT
22 I'M MAKING TO THIS COURT IS THAT FROM THE DAY OF THE WAKE-UP
23 CALL, FROM WHEN HE GETS ARRESTED, HE HAS DONE EVERYTHING
24 POSSIBLE TO TURN THIS WHOLE THING AROUND; RECOGNIZING IT AND
25 CHANGING HIS LIFE FROM A TO Z. SO THAT'S A SEPARATE ISSUE.

1 THE COURT: ARE YOU READY TO GO FORWARD?

2 MR. CROWLEY: YES.

3 THE COURT: I THINK IT'S MOST RELEVANT TO THE MINOR
4 ROLE DETERMINATION. IF TRUE, IT'S A LITTLE AGGRAVATING UNDER
5 3553. BUT I UNDERSTAND THIS IS NOT ADJUDICATED CONDUCT. I'M
6 NOT PREPARED, WHEN I'M NOT FORCED TO MAKE A LEGAL RULING, TO
7 MAKE A FINDING ON THAT. IF THAT IS AGREEABLE TO YOU AND
8 MR. RAMIREZ, THEN WE'LL GO FORWARD TODAY.

9 AND YOU WITHDRAW YOUR REQUEST FOR POSTPONEMENT UNDER
10 THAT SCENARIO?

11 MR. CROWLEY: YES.

12 THE COURT: MR. FRANK, WHY DON'T YOU CONTINUE. I'M
13 HAPPY TO HEAR FROM YOU.

14 MR. FRANK: THANK YOU.

15 THE ISSUE WE'VE BEEN TALKING ABOUT IS JUST ONE OF
16 THE ISSUES CITED IN MY MOTION FOR DOWNWARD DEPARTURE, WHICH I
17 WOULD MOST RESPECTFULLY SUBMIT JUSTIFY AN ADDITIONAL DOWNWARD
18 DEPARTURE UNDER A COMBINATION OF FACTORS.

19 THE RELATIONSHIP WITH THE CO-DEFENDANT, THE SEXUAL
20 ABUSE OF WHICH SHE WAS A VICTIM, AND THE COMBINATION OF HER
21 OWN PERSONAL DRUG USE ALL CONTRIBUTED TO OBVIOUSLY A MISTAKE
22 IN JUDGMENT, TO SAY THE LEAST. SHE KNOWS THAT SHE'S GOING TO
23 RECEIVE CUSTODY THIS MORNING.

24 BUT I WOULD SUBMIT TO YOUR HONOR WHETHER IT'S A
25 STRAIGHT GUIDELINE APPROACH OR WHETHER IT'S AN APPROACH

1 FACTORING IN THE CONSIDERATION OF 18 UNITED STATES CODE
2 SECTION 3553, MY REQUEST FOR A PERIOD OF CUSTODY OF 37 MONTHS,
3 I WOULD SUBMIT, IS MORE THAN APPROPRIATE FOR A 22-YEAR-OLD
4 PASSENGER IN A VEHICLE WITH ABSOLUTELY NO PRIOR RECORD WHO HAD
5 NOTHING TO GAIN AT ALL IN THIS PARTICULAR TRANSACTION. NOT A
6 PENNY WAS COMING TO HER.

7 YOUR HONOR KNOWS AND IT'S UNDISPUTED SHE HAD NOTHING
8 TO DO WITH ANY ARRANGEMENTS, ANY NEGOTIATIONS, ANY EXCHANGE OF
9 MONEY. SHE PLAIN AND SIMPLE WAS A PASSENGER KNOWING WHAT HER
10 PRESENCE MIGHT RESULT IN IN TERMS OF THE SAFE PASSAGE THROUGH
11 THE BORDER.

12 BUT 37 MONTHS FOR SOMEBODY LIKE THIS, I WOULD
13 SUBMIT, IS MORE THAN APPROPRIATE. AND MY SUGGESTION OF A
14 FOUR-LEVEL DOWNWARD DEPARTURE FOR COMBINATION WAS NOTHING MORE
15 THAN A VEHICLE TO GET TO 37 MONTHS, WHICH I WOULD SUBMIT THE
16 COURT CAN GET TO FACTORING IN THE 3553 ITEMS. I WOULD URGE
17 THE COURT TO CONSIDER THAT AND TO IMPOSE A SENTENCE ALONG
18 THOSE LINES.

19 THE COURT: MS. QUINTERO, I'M HAPPY TO HEAR FROM YOU
20 WHATEVER ELSE YOU WANT ME TO KNOW BEFORE I DETERMINE AND
21 PRONOUNCE SENTENCING IN YOUR CASE.

22 THE DEFENDANT: I'M SORRY. I DIDN'T WANT TO HURT
23 ANYBODY. I DIDN'T WANT TO HURT MY FAMILY.

24 THE COURT: ON BEHALF OF THE UNITED STATES.

25 MR. MASON: THE GOVERNMENT WILL SUBMIT, YOUR

1 HONOR.

2 THE COURT: THE COURT FINDS AS FOLLOWS UNDER THE
3 GUIDELINES AS TO MS. QUINTERO: THE BASE OFFENSE LEVEL FOR
4 THIS AMOUNT OF THE PURE METHAMPHETAMINE IS 38. ORDINARILY,
5 THERE WOULD BE A TWO-POINT ADJUSTMENT UPWARD BECAUSE THE
6 METHAMPHETAMINE WAS IMPORTED FROM MEXICO. IT DOESN'T APPLY IN
7 THIS CASE BECAUSE, AS I'VE INDICATED, I DO FIND THAT THERE IS
8 AN APPROPRIATE ROLE REDUCTION HERE RECOMMENDED.

9 I DO FIND THAT MS. QUINTERO'S RESPONSIBILITY HERE
10 WAS SUBSTANTIALLY LESS THAN THE AVERAGE PARTICIPANT AND THAT A
11 ROLE REDUCTION, ALTHOUGH IT'S A GENEROUS ONE UNDER THE
12 CALCULATIONS, APPLIES.

13 THIS IS A CASE IN POINT, MR. CROWLEY AND MR. FRANK.
14 THE ROLE REDUCTION HERE EFFECTS AN EIGHT-POINT DIFFERENCE IN
15 THE GUIDELINES. IT ELIMINATES THE TWO POINTS THAT WOULD BE
16 ADDED BECAUSE METHAMPHETAMINE WAS IMPORTED, WHICH WOULD TAKE
17 THIS UP TO A 40. IT SCORES THE BEGINNING OFFENSE LEVEL AT A
18 34 RATHER THAN A 38. THAT'S A SIX-POINT REDUCTION.

19 MR. CROWLEY: WE LIVE AND DIE WITH SOME OF THE
20 COMMISSION'S COMMENTS THAT MOSTLY HURT US.

21 THE COURT: INCLUDING DEFINITIONS, ONE OF WHICH IS I
22 HAVE TO BE CONVINCED BY A PREPONDERANCE OF EVIDENCE THAT THE
23 PERSON'S ROLE WAS SUBSTANTIALLY LESS CULPABLE. NOT FROM THE
24 KINGPINS THAT HAVE PROPRIETARY INTEREST IN THE DRUGS AND
25 SPONSOR THESE THINGS, BUT THE AVERAGE PARTICIPANT.

1 I'M WELL AWARE THAT THESE THINGS HAVE TENTACLES THAT
2 INVOLVE LOTS OF PLAYERS; PEOPLE THAT MAKE THE SUBSTANCE,
3 PACKAGE IT, PUT IT IN THE AUTOMOBILE, PEOPLE THAT PICK IT UP
4 ON THIS SIDE OF THE BORDER.

5 NOW, THERE'S NOT NECESSARILY EVIDENCE OF THAT IN
6 THIS CASE. BUT I'M WILLING TO EMBRACE THOSE USUAL
7 CHARACTERISTICS HERE. AND EVEN WITH THAT SAID, THIS ISN'T THE
8 EASIEST CALL BECAUSE THERE WAS A SECOND TIME -- AT LEAST A
9 SECOND-TIME INVOLVEMENT AS A PASSENGER.

10 I DO CREDIT THE ACCOUNT OF MS. QUINTERO IN THIS
11 REGARD AT PAGE 8 IN THE DEFENSE SENTENCING MEMORANDUM. I'M
12 NOT SURE SHE HAD THE FULL RANGE OF CHOICES. I THINK TO SOME
13 EXTENT HER CONDUCT WAS BEING CONTROLLED BY MR. RAMIREZ. SO
14 FOR THAT REASON, NOTWITHSTANDING THAT SHE CROSSED TWICE -- OR
15 HELPED CROSS NARCOTICS TWICE, I STILL FIND THAT HER ROLE WAS
16 SUBSTANTIALLY LESS CULPABLE THAN THE AVERAGE PARTICIPANT.

17 ALL THAT TO SAY THAT THE STARTING OFFENSE LEVEL
18 BECOMES 34. I DO FIND SHE'S ELIGIBLE FOR SAFETY VALVE. SO
19 TWO ADDITIONAL POINTS COME OFF FOR ROLE, WHICH DROPS THIS TO A
20 30. SHE'S ACCEPTED RESPONSIBILITY, WHICH DROPS THIS TO A 27.
21 I GRANT THE MOTION FOR FAST TRACK THAT THE GOVERNMENT'S MADE
22 PURSUANT TO 5K3.1, WHICH DROPS THIS TO A 25. SHE IS IN
23 CRIMINAL HISTORY CATEGORY 1.

24 THE COURT HAS CONSIDERED ADDITIONAL DEPARTURES. I
25 FIND THAT I'M NOT INCLINED TO GRANT ADDITIONAL DEPARTURES,

1 PER SE. MY PREFERENCE IS TO CONSIDER THE INFORMATION UNDER
2 3553. FRANKLY, EVEN THOUGH I UNDERSTAND DEPARTURES ARE STILL
3 AN AVAILABLE VEHICLE, I THINK THEY'RE BESIDE THE POINT. I
4 THINK THE EQUITIES THAT YOU ARGUE ABOUT HER BACKGROUND I FIND
5 EASIER AT LEAST TO APPLY IN THE CONTEXT OF HISTORY AND
6 CHARACTERISTICS OF A DEFENDANT AND MY OWN COMMON SENSE AND
7 EXPERIENCE. SO I DECLINE TO DEPART FURTHER. THE ADVISORY
8 GUIDELINE RANGE IS 57 TO 71 MONTHS.

9 NOW, TURNING TO THE 3553(A) FACTORS -- AND THIS I'LL
10 NOT REPEAT, BUT IT APPLIES TO BOTH DEFENDANTS -- THIS IS A
11 VERY SERIOUS OFFENSE. OF ALL THE DRUGS THAT ARE BROUGHT
12 ACROSS THE BORDER, I CONSIDER METHAMPHETAMINE TO BE THE MOST
13 NEFARIOUS AND THE MOST DEADLY. I THINK IT HAS THE MOST
14 PERNICIOUS EFFECT ON OUR COMMUNITY AT THE PRESENT TIME AS WELL
15 AS ON THE PEOPLE WHO ARE ADDICTED TO IT. IT IS MORE
16 ADDICTING, I'VE FOUND, THAN COCAINE AND MAYBE EVEN HEROIN.

17 THE DAMAGE THAT IT HAS DONE AND CONTINUES TO DO TO
18 OUR COMMUNITY IS VERY PROFOUND. AND FOR THE DEFENDANTS TO BE
19 INVOLVED IN AN ENTERPRISE WHICH BRINGS THIS POISON INTO THE
20 COMMUNITY, IT'S A TERRIBLE BLOTCH ON BOTH OF THEIR RECORDS.

21 THIS FEELING I'VE JUST EXPRESSED ABOUT THIS IS ALSO
22 REFLECTED IN THE PENALTIES THAT CONGRESS PROVIDES FOR THIS.
23 THERE'S A TEN-YEAR MANDATORY MINIMUM UNDER MOST CIRCUMSTANCES.
24 THAT'S THE PRESUMPTIVE LEVEL FOR SOMEBODY DEALING IN THIS
25 AMOUNT OF METHAMPHETAMINE. AND THE PENALTY GOES ALL THE WAY

1 UP TO LIFE. AND I'M ASSUMING THAT THERE MUST BE SOMEBODY
2 SOMEWHERE WHO QUALIFIES FOR A LIFE SENTENCE FOR DOING THIS.
3 IT'S VERY SERIOUS, AND THE PENALTY SCHEME BESPEAKS THAT.

4 NOW, LOOKING TO THE HISTORY AND CHARACTERISTICS OF
5 MS. QUINTERO, I THINK THERE ARE EQUITIES HERE. MR. FRANK HAS
6 ADVANCED THOSE. ASIDE FROM THE ABUSE ALLEGED AT THE HANDS OF
7 MR. RAMIREZ, WHICH I'VE CONSIDERED FOR ROLE AND WILL NOT
8 OTHERWISE CONSIDER AGAINST HIM IN A NEGATIVE WAY, I DO FIND
9 THAT THAT'S AN EQUITY. THAT HAS NOT BEEN FULLY ACCOUNTED FOR
10 EVEN THOUGH THERE WAS A SUBSTANTIAL ROLE REDUCTION. MR. FRANK
11 HAS ASKED ME TO LOOK BEYOND THAT AT OTHER ABUSE THAT SHE
12 SUFFERED. AND THAT'S DOCUMENTED. I DON'T THINK THERE'S A
13 DISPUTE.

14 SHE, AT 22 YEARS OLD, HAS NOT HAD THE SAME SET OF
15 OPPORTUNITIES THAT MOST 22-YEAR-OLD WOMEN HAVE HAD. AND SHE'S
16 OVERCOME A LOT OF ADVERSITY. I THINK THAT'S A MITIGATING
17 FACTOR AND A SYMPATHETIC FACTOR TO BE SURE HERE.

18 I LOOK AT THE NEED TO PROMOTE RESPECT FOR THE LAW.
19 AGAIN, I THINK I'VE SPOKEN TO THAT IN TALKING ABOUT THE
20 PROBLEM THAT METHAMPHETAMINE POSES IN OUR COMMUNITY. I THINK
21 IT'S TIED TOGETHER WITH SOME OF THE SAME CONCERNS I'VE
22 PREVIOUSLY ARTICULATED.

23 NEED FOR DETERRENCE. I DOUBT THAT MS. QUINTERO WILL
24 GET INVOLVED IN SOMETHING LIKE THIS AGAIN. EVEN UNDER THE
25 CIRCUMSTANCES OF HAVING SOMEONE PRESENT A SUPERIOR ROLE TO HER

1 AND TRYING TO PRESSURE HER, I THINK SHE IS GOING TO PAY A
2 HEAVY PRICE FOR THIS. THAT WILL BE A SPECIFIC DETERRENT TO
3 HER.

4 THERE IS ANOTHER ASPECT OF THIS, GENERAL DETERRENCE.
5 AND I THINK THAT THE SENTENCE NEEDS TO REFLECT THAT THERE'S A
6 HEAVY PENALTY TO PAY. AND SO PEOPLE WHO ARE AWARE OF THIS AND
7 IN A SITUATION SIMILAR TO THAT WHICH MS. QUINTERO FOUND
8 HERSELF IN SAID, "IT'S NOT WORTH IT. EVEN IF I'VE GOT TO WALK
9 AWAY FROM THIS GUY, IT'S NOT WORTH IT BECAUSE I'M NOT GOING TO
10 BE SUBJECT TO GOING TO JAIL FOR FIVE OR TEN YEARS OR 57 MONTHS
11 OR 37 MONTHS." SO I DO THINK THAT IS IN PLAY HERE AS WELL.

12 I ALSO AM ACUTELY AWARE OF THE KINDS OF SENTENCES
13 THAT HAVE BEEN IMPOSED FOR THIS AMOUNT OF THIS DRUG IN AN
14 IMPORTING SITUATION. I DO THIS ON A REGULAR BASIS. I HAVE
15 THAT IN THE BACK OF MY MIND AS WELL.

16 IN THE END, THE COURT FINDS THE MOST APPROPRIATE
17 SENTENCE IN MS. QUINTERO'S CASE, TAKING INTO CONSIDERATION ALL
18 THAT I HAVE DISCUSSED, IS 48 MONTHS. I DO IMPOSE A 48-MONTH
19 SENTENCE.

20 THAT'S TO BE FOLLOWED BY A MANDATORY MINIMUM
21 SUPERVISED RELEASE TERM OF FIVE YEARS. HERE ARE THE
22 CONDITIONS OF SUPERVISED RELEASE:

23 MS. QUINTERO, YOU'RE NOT TO POSSESS FIREARMS,
24 EXPLOSIVE DEVICES, OR OTHER DANGEROUS WEAPONS. YOU'RE TO
25 PROVIDE COMPLETE DISCLOSURE OF YOUR PERSONAL AND FINANCIAL

1 BUSINESS RECORDS TO THE PROBATION OFFICER AS REQUESTED.
2 YOU'RE TO PARTICIPATE IN A PROGRAM OF DRUG OR ALCOHOL ABUSE
3 TREATMENT, INCLUDING DRUG TESTING AND COUNSELING AS DIRECTED
4 BY THE PROBATION OFFICER. YOU'RE TO PARTICIPATE, ALSO, IN A
5 PROGRAM OF MENTAL HEALTH TREATMENT, AS DIRECTED BY THE
6 PROBATION OFFICER. YOU'RE TO SUBMIT TO A SEARCH OF YOUR
7 PERSON, PROPERTY, RESIDENCE, AND VEHICLE AT A REASONABLE TIME
8 AND IN A REASONABLE MANNER, AS DIRECTED BY THE PROBATION
9 OFFICER. ALSO, TELL THE PROBATION OFFICER ABOUT AUTOMOBILES
10 YOU OWN, OPERATE, OR HAVE AN INTEREST IN.

11 MR. FRANK, IS THERE A STIPULATED DEPORTATION
12 PROVISION AS PART OF --

13 MR. FRANK: THERE IS.

14 THE COURT: IS THAT PART OF THE NEGOTIATED DEAL?

15 MR. MASON: YOUR HONOR, GIVE ME A MOMENT. I'LL LOOK
16 AT THE PLEA AGREEMENT.

17 THE COURT: I KNOW THAT SHE'S JUST A VISA HOLDER. I
18 DON'T REMEMBER THAT TERM.

19 MR. MASON: YOUR HONOR, THAT IS IN PARAGRAPH 10(I).

20 THE COURT: I APOLOGIZE. LET ME GO BACK,
21 MS. QUINTERO, AND START OVER ON THE SUPERVISED RELEASE TERM.

22 BECAUSE YOU'RE SUBJECT TO DEPORTATION AND YOU'LL BE
23 DEPORTED AFTER THIS, I'M GOING TO SET ONLY TWO CONDITIONS
24 RATHER THAN THE ONES I JUST RECITED.

25 THE TWO CONDITIONS ARE THESE: ONE, DON'T VIOLATE

1 ANY UNITED STATES LAWS; AND, TWO, ONCE YOU'RE RETURNED TO
2 MEXICO, DON'T REENTER THE UNITED STATES FOR ANY REASON.

3 IF YOU COME BACK INTO THE UNITED STATES, YOU'RE
4 SUBJECT TO AN ADDITIONAL JAIL TERM ON THIS CASE AS WELL AS NEW
5 CHARGES BEING LODGED AGAINST YOU.

6 DO YOU UNDERSTAND THE CONDITIONS OF SUPERVISED
7 RELEASE?

8 THE DEFENDANT: YES.

9 THE COURT: I DECLINE TO IMPOSE A FINE. SHE HAS NO
10 ABILITY TO PAY A FINE. I DO IMPOSE A \$100 PENALTY ASSESSMENT.
11 GIVEN A FOUR-YEAR SENTENCE, SHE CAN WORK IN PRISON INDUSTRIES
12 AND PAY THAT OFF BEFORE SHE'S RELEASED.

13 THE PROBATION OFFICER: YOUR HONOR HAD MENTIONED A
14 MANDATORY MINIMUM OF FIVE YEARS. THERE IS NO MANDATORY
15 MINIMUM BECAUSE SHE MET THE SAFETY VALVE. SO THREE WOULD BE
16 ALLOWABLE. FIVE IS CERTAINLY ALLOWABLE, ALSO.

17 THE COURT: GIVEN THE STIPULATED DEPORTATION AND THE
18 EXCLUSION FROM ADMISSION, I'M GOING TO LEAVE IT AT FIVE. I'D
19 LIMIT IT TO THOSE TWO TERMS: VIOLATE NO UNITED STATES LAWS,
20 AND DON'T COME BACK.

21 MR. FRANK: WOULD THE COURT CONSIDER INCLUDING IN
22 THE JUDGMENT AND COMMITMENT A RECOMMENDATION FOR THE 500-HOUR
23 DRUG PROGRAM?

24 THE COURT: I WILL. TO BE HONEST WITH YOU, I'VE
25 BEEN TOLD NUMEROUS TIMES SOMEONE WHO'S NOT A CITIZEN TYPICALLY

1 DOESN'T GET INTO THE PROGRAM. IF SHE'S ELIGIBLE, I RECOMMEND
2 IT.

3 MR. FRANK: I THINK THE BIGGEST DIFFERENCE IS SHE
4 MIGHT NOT GET THE BENEFIT OF LOWERING HER SENTENCE, BUT MAY
5 STILL BE ABLE TO PARTICIPATE.

6 THE OTHER THING I'D ASK THE COURT TO CONSIDER IS A
7 RECOMMENDATION FOR THE FACILITY IN DUBLIN.

8 THE COURT: I'LL MAKE THAT RECOMMENDATION AS WELL.

9 MR. FRANK, DO YOU AGREE THAT THE PRONOUNCED SENTENCE
10 COMFORTS WITH WHAT WAS BARGAINED FOR BY MS. QUINTERO AND
11 TRIGGERS A WAIVER OF ANY RIGHT TO APPEAL OR COLLATERALLY
12 ATTACK THE COURT'S JUDGMENT IN THE FUTURE?

13 MR. FRANK: YES, YOUR HONOR.

14 THE COURT: MR. CROWLEY, LET'S TURN TO MR. RAMIREZ
15 NOW.

16 MR. CROWLEY: THANK YOU, YOUR HONOR.

17 MR. MASON: YOUR HONOR, IF I MAY, MY COLLEAGUE,
18 MR. CANOVER, WILL STAND IN FOR ME FOR THIS PORTION.

19 THE COURT: YOU MAY WANT TO HANG AROUND FOR A
20 MINUTE.

21 DID YOU NEGOTIATE THE -- I MEAN, WHAT'S CONTESTED
22 AND WHAT I TOLD MR. CROWLEY I'LL HEAR MORE ABOUT IS THE MINOR
23 ROLE. I'M NOT ONBOARD. BUT IF I MISSED SOMETHING THAT YOU'RE
24 IN A UNIQUE SITUATION TO EDUCATE ME ABOUT AND SAY "JUDGE,
25 LOOK, IT'S NOT THE WAY YOU THINK. THIS GUY DID HAVE A MINOR

1 ROLE NOTWITHSTANDING TEN CROSSINGS AND" --

2 MR. MASON: YOUR HONOR, THIS WAS A FAST TRACK CASE.
3 MY INVOLVEMENT IN IT DID INCLUDE THE SAFETY VALVE.

4 THE COURT: NOT THE MINOR ROLE?

5 MR. MASON: BUT NOT ANY NEGOTIATION WITH RESPECT TO
6 THAT TERM OF THE PLEA AGREEMENT.

7 THE COURT: DO YOU HAVE ANY ADDITIONAL INFORMATION
8 ON THAT THAT MIGHT HELP MEAN OR HELP MR. RAMIREZ?

9 MR. MASON: I DO NOT, YOUR HONOR. ALL I HAVE IS
10 WHAT IS IN THE PSR AND THE CASE LAW THAT WE ALL ARE FAMILIAR
11 WITH.

12 THE COURT: UNDER THOSE CIRCUMSTANCE, YOU'RE
13 EXCUSED.

14 MR. CROWLEY: I WOULD STATE ON THAT ONE ISSUE THAT
15 ALL THIS INFORMATION THAT THE COURT IS UTILIZING TO FIND
16 AGAINST HIM ON A MINOR ROLE CAME FROM MR. RAMIREZ AND CAME AT
17 THE EARLIEST OPPORTUNITY. AND THE GOVERNMENT KNEW ALL OF THAT
18 INFORMATION WHEN THEY MADE THE OFFER.

19 THE COURT: I'M SENSITIVE TO THAT, MR. CROWLEY. BUT
20 THERE IS A CERTAIN UNFAIRNESS THAT SAYS "OKAY. BE
21 FORTHCOMING" AND THEN HAVE IT SHOVED DOWN YOUR THROAT. I'M
22 SENSITIVE TO THAT.

23 ON THE OTHER HAND, I DON'T THINK IT'S GOOD POLICY TO
24 SAY, "BE FORTHCOMING BECAUSE IT WON'T AFFECT OUR JUDGMENT AT
25 ALL. WE'LL JUST SAY, 'OH, WOW. THIS IS MUCH BIGGER THAN WHAT

1 WE ORIGINALLY THOUGHT OR WHAT WE THOUGHT WE COULD PROVE.'"
2 I'M NOT ENTIRELY CONVINCED THAT SOME OF THIS WOULDN'T HAVE
3 BEEN FLESHED OUT HAD THE CASE BEEN INVESTIGATED IN PREPARATION
4 FOR TRIAL.

5 MR. CROWLEY: WELL, PREPARATION FOR TRIAL. I
6 THOUGHT THE COURT WAS GOING TO AN ISSUE THAT -- BEFORE YOUR
7 HONOR WAS ON THE BENCH, SOMETHING THAT ALWAYS STUCK WITH ME
8 THAT YOU SAID ONCE IN A CASE THAT WE HAD TOGETHER WAS "THERE
9 WAS REALLY GOOD POLICE WORK IN THIS CASE." AND THE REASON YOU
10 SAID IT IN THE WAY YOU SAID IT WAS BECAUSE WE DIDN'T SEE IT
11 THAT MUCH, QUITE FRANKLY, UNFORTUNATELY. EFFORTS WERE MADE
12 HERE THAT WERE, GOSH, IN MY OPINION, LACKING.

13 AND SO I DON'T MEAN TO RAIN ON THE PARADE OF LAW
14 ENFORCEMENT, BUT WE'VE JUST BEEN AROUND FOR A LONG TIME, BOTH
15 OF US. IN THE PAST, I WOULD HAVE SEEN ISSUES WHERE HE WOULD
16 HAVE BEEN SITTING UP HERE BASICALLY SAYING THAT YOU WOULD BE
17 GETTING A LETTER UNDER SEAL FROM THE GOVERNMENT ABOUT HIS
18 EFFORTS, AND YET NOW IT TURNS AROUND. IT'S HARD TO EXPLAIN TO
19 HIM THAT ALL THE INFORMATION THAT HE PROVIDES ENDS UP BEING
20 USED AGAINST HIM.

21 IT'S HARD TO SQUARE THAT, YES, I UNDERSTAND WHAT THE
22 COURT IS SAYING. YOU CAN'T JUST IGNORE IT. BUT THEN, ON THE
23 OTHER HAND, WE'RE SAYING THAT --

24 THE COURT: ACTUALLY, I'M WILLING TO -- AND I'LL
25 COMMIT TO YOU AND MR. RAMIREZ THAT I WILL IN HIS CASE --

1 CONSIDER IT IN TWO CONTEXTS; ONE THAT DOESN'T HELP HIM, AND
2 ONE THAT DOES.

3 ONE CONTEXT IS IT FULLY INFORMS ME ABOUT LEGAL
4 ISSUES SUCH AS ROLE AND ABOUT THE SCOPE OF HIS INVOLVEMENT.
5 ON THE OTHER HAND, IT CAME FROM HIM. AND I THINK THAT'S A
6 GOOD THING. YOU'RE COMING IN. YOU'RE ASKING FOR REDUCTIONS.
7 YOU'VE BEEN ENTIRELY FORTHCOMING. THAT'S A POSITIVE THING.

8 I DON'T KNOW WHERE THAT FITS UNDER THE GUIDELINES,
9 BUT IT CERTAINLY FITS UNDER THE 3553 FACTORS.

10 MR. CROWLEY: I APPRECIATE THAT.

11 THE COURT: SO I WILL -- I GIVE YOU MY ASSURANCE TO
12 TAKE THAT INTO ACCOUNT AND DO THAT BIFURCATED THINKING.

13 MR. CROWLEY: ONE OTHER ISSUE WHICH WE'VE HAD LONG
14 DISCUSSIONS ABOUT. AND I CERTAINLY UNDERSTAND NOT ONLY THIS
15 COURT'S VIEW ON IT, BUT IT'S BEEN EXPRESSED IN THE PAST. BUT
16 ALSO OTHER COURTS, QUITE CORRECTLY, PROBABLY, IN MANY WAYS.
17 THAT IS THE IDEA THAT, OF COURSE, HE WAS TOLD THAT IT WAS
18 MARIJUANA AND NOT METHAMPHETAMINE.

19 THIS ONE WAS A HALF-STEP FURTHER IN WHICH HE WAS
20 ACTUALLY SHOWN THE CONTRABAND IN ONE CASE. AND SO FOR SOME
21 REASON, THAT GAVE HIM SOME ASSURANCE THERE. AND SO THAT'S
22 SOME SORT OF ADDITIONAL ISSUE. AND, OF COURSE, I TAKE THE
23 COURT'S WORDS ABOUT METHAMPHETAMINE. QUITE FRANKLY, THAT'S
24 PROBABLY THE AREA THAT YOU AND I AGREE WITH THE MOST. WE
25 DON'T AGREE ON ALL THAT MANY THINGS. BUT THAT ONE WE

1 ABSOLUTELY DO AGREE ON. AND WE'VE SEEN IT FROM BOTH SIDES AND
2 KNOW THAT IT'S -- QUITE FRANKLY, I SAY IT WHENEVER ANYBODY
3 WILL LISTEN. METHAMPHETAMINE IS THE WORST THING OUT THERE.

4 THE COURT: IT'S AWFUL. MR. RAMIREZ, YOU KNOW THAT.
5 THERE'S PEOPLE OVER THERE THAT ARE ADDICTED TO IT. YOU CAN
6 SEE IT IN THEIR FACES. THEY'VE GOT THIS CHISELED LOOK, AND
7 THEY'VE GOT ALL KINDS OF BLEMISHES, AND THEIR TEETH ARE
8 FALLING OUT. IT'S JUST AWFUL.

9 GO AHEAD.

10 MR. CROWLEY: THE ONLY OTHER -- WELL, I'D JUST ADD
11 BRIEFLY ON THE MINOR ROLE, AT ONE TIME WE HAD A DISTINCTION
12 ABOUT WHAT WAS ABERRANT BEHAVIOR. THAT HAD TO DO WITH THE
13 SINGLE INSTANCE OF COMING CROSSING. THAT SEEMED TO HAVE
14 MORPHED INTO MINOR ROLE. AND WITH THAT, I WOULD SUBMIT ON
15 THAT PARTICULAR ISSUE.

16 WHAT I THINK IS, IN MY OPINION, MORE IMPORTANT ABOUT
17 MR. RAMIREZ AS I'VE GOTTEN TO KNOW HIM OVER THESE MONTHS THAT
18 WE'VE BEEN -- IT'S BEEN DIFFICULT NEGOTIATIONS AND A DIFFICULT
19 CASE FOR HIM. FROM THE MINUTE HE WAS ARRESTED, HE HAS
20 UNDERSTOOD THE PROBLEM THAT HE WAS IN. HE HAS ALWAYS BEEN
21 VERY -- QUITE FRANKLY, WHEN THESE ALLEGATIONS OF THIS DOMESTIC
22 ABUSE CAME OUT, IT WAS A SHOCKER BECAUSE OF HOW, QUITE
23 FRANKLY, LOVINGLY AND HOW WILLING TO FALL ON HIS SWORD HE WAS
24 FOR HER ALL ALONG.

25 THAT SAID, HE'S REALLY TAKEN SOME EFFORTS. I PUT IN

1 THE SENTENCING MEMORANDUM THE KINDS OF THINGS -- I'VE NEVER
2 SEEN AN EVALUATION FROM FOOD SERVICES. MAYBE THE COURT HAS.
3 BUT HE JUST HIT EVERY SINGLE ONE. IT SHOWS AN ATTITUDE. IT
4 SHOWS A WAY THAT HE'S TURNED IT AROUND AND CHANGED IT.

5 HE DID HAVE A DRUG PROBLEM, TOO, WHICH OBVIOUSLY
6 CONTRIBUTED TO THIS SITUATION. SO HE WANTS TO ADDRESS THAT.
7 HE HAS ADDRESSED IT. BUT HE KNOWS THAT WHEN HE GETS BACK OUT
8 THERE, THERE'S GOING TO BE ADDITIONAL PROBLEMS THAT HE'S GOING
9 TO HAVE TO DEAL WITH.

10 SO WHAT I SEE HERE -- AND I DON'T SAY -- I TRY NOT
11 TO INJECT MYSELF PERSONALLY UNLESS IT'S REALLY APPROPRIATE. I
12 FEEL STRONGLY ABOUT IT. I REALLY HAVE SEEN A DIFFERENCE
13 FROM -- ALTHOUGH I HAVE TO SAY FROM DAY ONE OF ME MEETING HIM,
14 HE WAS LIKE THAT AND READY TO DO WHATEVER IT TOOK TO TURN IT
15 AROUND INCLUDING WHATEVER SENTENCE THE COURT DISHED OUT.

16 I WENT BACK AND LOOKED AT THAT TRANSCRIPT WHEN I
17 WASN'T EVEN HERE. AND HE SPOKE ABOUT "I UNDERSTAND THAT THE
18 COURT NEEDS TO GIVE ME A SENTENCE, AND I'M READY TO ACCEPT
19 IT." THAT'S THE WAY HE'S ALWAYS BEEN WITH ME, A DELIGHTFUL
20 CLIENT IN THAT REGARD. THEY'RE NOT ALL LIKE THAT.

21 SO I THINK THAT SHOULD BE TAKEN INTO ACCOUNT. THE
22 OFFENSE RECOGNIZED BY ALL PARTIES AS BEING TERRIBLE, FALLING
23 FOR THE LURE OF IT, THE EXCITEMENT OF IT IN TAKING THESE
24 TRIPS, BUT THEN OWNING UP TO THEM RIGHT AWAY AND THEN TURNING
25 IT AROUND.

1 I WOULD SUBMIT.

2 I THINK MR. RAMIREZ DOES WANT TO SPEAK TO THE COURT.

3 THE COURT: MR. RAMIREZ, I'M HAPPY TO HEAR FROM YOU.

4 THE DEFENDANT: FIRST OF ALL, I'D LIKE TO APOLOGIZE

5 TO MY FIANCEE VERONICA QUINTERO FOR BRINGING HER INTO THIS

6 PROBLEM. THE SECOND ONE, MY FAMILY. I'M READY FOR MY

7 SENTENCE, YOUR HONOR. YOU CAN DO THE BEST YOU CAN. I'M READY

8 TO PAY FOR MY PROBLEM THAT I DID.

9 THE COURT: ON BEHALF OF THE UNITED STATES.

10 MR. MASON: THE UNITED STATES WILL SUBMIT, YOUR

11 HONOR.

12 THE COURT: THE GUIDELINES I'VE ACKNOWLEDGED ARE

13 ADVISORY. THAT SAID, I FIND MYSELF IN AGREEMENT WITH THE

14 GUIDELINE CALCULATIONS SET FORTH IN THE PROBATION REPORT WITH

15 SOME QUALIFICATION. ACTUALLY, WITH THESE QUALIFICATIONS:

16 FIRST, I FIND THAT THE BASE LEVEL HERE IS 38. THIS INVOLVED

17 ABOUT 11 POUNDS OF PURE METHAMPHETAMINE, 5.5 KILOS OF PURE

18 METHAMPHETAMINE. THAT PRODUCES A BASE LEVEL OF 38.

19 THE METHAMPHETAMINE IN THIS CASE, THERE'S NO

20 DISPUTE, WAS IMPORTED INTO THE UNITED STATES UNDER 2D1.1.

21 THAT ADDS TWO AND TAKES THIS TO A 40.

22 THE ISSUE OF MINOR ROLE I'VE ADDRESSED. I DO NOT

23 FIND IN THIS CASE BY A PREPONDERANCE OF EVIDENCE THAT

24 MR. RAMIREZ HAD A ROLE THAT WAS SUBSTANTIALLY LESS CULPABLE TO

25 THE AVERAGE PARTICIPANT. AND I'VE, BY BULLET POINT, ALLUDED

1 TO THE REASONS WHY. THEY'RE MORE PARTICULARLY SET FORTH AT
2 PAGE 2.

3 THE INVOLVEMENT IN THIS ACTIVITY BEGAN SOME THREE
4 MONTHS BEFORE HIS ARREST. IT'S INDICATED HERE, AS MR. CROWLEY
5 ALLUDES TO, THAT HE BELIEVED HE WAS TRANSPORTING MARIJUANA --
6 THAT'S WHAT HE WAS TOLD -- AT \$2,000 PER TRIP. BUT THERE'S NO
7 INDICATION OF ANY HESITATION AT THE TIME. AND AS MR. CROWLEY
8 POINTS OUT, I THINK THERE WAS SOME THRILL TO THIS. THERE WAS
9 THE PROSPECT OF BIG MONEY.

10 WHAT'S ABSOLUTELY CLEAR TO ME IS THAT MR. RAMIREZ,
11 AT THE POINT IN TIME HE CONSIDERED THIS AND HE WAS CONTACTED,
12 WAS A WILLING IMPORTER OF NARCOTICS INTO THE UNITED STATES.
13 THAT BEING THE CASE, HE'S IN PRIME POSITION AND MUST ASSUME
14 RESPONSIBILITY THAT THESE PEOPLE THAT YOU DEAL WITH ARE GOING
15 TO LIE TO YOU. THEY'RE GOING TO LIE TO YOU ABOUT THE KIND OF
16 DRUG THAT YOU'RE BRINGING IN AND THE AMOUNT OF THE DRUG.
17 THEY'RE NOT NICE PEOPLE.

18 AND IN THE FIRST INSTANCE, YOU HAVE THE
19 RESPONSIBILITY TO VERIFY WHAT THEY'RE TELLING YOU IS TRUE. "I
20 WANT TO SEE THIS. BEFORE YOU COVER THAT STUFF UP OR AFTER YOU
21 PACK IT IN, I WANT TO SEE IT AND MAKE SURE THAT IT'S WHAT YOU
22 TELL ME I'M BRINGING IN, MARIJUANA."

23 THAT MAY SEEM CLUMSY. IT MAY SEEM NAIVE TO DO THAT.
24 BUT YOU'RE THE GUY THAT CAN DOUBLE-CHECK ON THOSE THINGS,
25 NOBODY ELSE. I CAN'T LAY IT ON LAW ENFORCEMENT OR THE

1 PROSECUTORS. WHEN YOU AGREED TO BRING DRUGS ACROSS, YOU TOOK
2 THE RISK AND ASSUMED THE RISK THAT THEY WERE GOING TO PULL A
3 SWITCHAROO ON YOU. AND THEY DID, APPARENTLY, IN THIS CASE.

4 DURING THE TIME PRECEDING HIS ARREST IN THIS CASE,
5 HE REGISTERED A VEHICLE IN HIS NAME. HE TESTED BY DRIVING
6 THROUGH THE PORT OF ENTRY AT VARIOUS TIMES. HE ESTIMATED THAT
7 HE WENT THROUGH TEN TIMES ON TEST TIMES. ALL THIS IS
8 INDICATIVE OF STEEPED INVOLVEMENT IN A DRUG ENTERPRISE AND
9 PREMEDITATION. HE MADE SEVERAL TRIPS ACROSS THE BORDER
10 ACTUALLY BRINGING DRUGS ON VARIOUS DATES, WENT TO LOCATIONS IN
11 SAN JOSE, ONE TRIP TO CHICAGO WHERE HE WAS ACCOMPANIED BY
12 MS. QUINTERO, AS I UNDERSTAND IT. EACH TIME HE RECEIVED THE
13 \$2,000. WHAT'S NOT CLEAR TO ME IS HOW MANY TOTAL TRIPS THERE
14 WERE, BUT THERE WAS SUBSTANTIAL INVOLVEMENT IN IMPORTING
15 NARCOTICS.

16 AS I SAID, I'LL CONSIDER THIS ONLY WITH RESPECT TO
17 ROLE IN A WAY THAT DOESN'T HELP MR. RAMIREZ. BUT I CAN'T
18 IGNORE THE FACT, ALSO, THAT THE CO-DEFENDANT SAYS, "BUT FOR
19 HIM PRESSURING ME, I WOULDN'T HAVE BEEN A PASSENGER IN THE
20 CAR. I WOULDN'T HAVE BEEN INVOLVED IN THIS."

21 I KNOW YOU'VE ALLUDED TO IT, MR. RAMIREZ. YOU FEEL
22 BADLY ABOUT HER PREDICAMENT. SHE'S DOING FOUR YEARS NOW. IF
23 THAT STUFF IS TRUE, THAT YOU PRESSURED HER, THAT YOU SORT OF
24 WILLED HER INTO THIS, SHE'S DOING FOUR YEARS ON ACCOUNT OF
25 YOU, TOO.

1 SO IN THE END, I SEE THIS FOR WHAT I THINK IT WAS.
2 I THINK IT WAS A PLEA BARGAINING TOOL TO RECOMMEND MINOR ROLE.
3 I'M NOT AGAINST GETTING TO A CERTAIN NUMBER, MR. CROWLEY, THAT
4 YOU AND THE GOVERNMENT AGREE TO IF WE CAN GET THERE
5 LEGITIMATELY. BUT THE EFFECT OF THIS IS TO ASK ME TO MAKE
6 ILLEGITIMATE FINDINGS, TO SAY MINOR ROLE WHEN I DON'T BELIEVE
7 THAT. IN GOOD CONSCIENCE, I DON'T THINK A REASONABLE PERSON
8 LOOKING AT ALL THE CIRCUMSTANCES WOULD.

9 HAVING SAID THAT, IF YOU WANT TO GIVE HIM TWO EXTRA
10 POINTS FOR COMING CLEAN AT AN EARLY STAGE -- YOU HAVE THE
11 AUTHORITY TO GO UP TO FOUR POINTS -- I'LL GRANT THAT. THAT'S
12 LEGIT. YOU CAN TELL ME "JUDGE, WE'VE GOT A LOT OF THESE
13 CASES. AS SERIOUS AS THEY ARE, IF THE GUY COPS OUT ON THE
14 FIRST INSTANCE, WE'LL GIVE HIM FOUR POINTS OFF RATHER THAN
15 TWO."

16 IT'S NOT ABOUT MY DISAGREEMENT WITH A CERTAIN
17 NUMBER. IF YOU WANT TO GET TO THE NUMBER IN A LEGITIMATE WAY,
18 I'LL ACCOMMODATE YOU. BUT I'M NOT GOING TO BE A PART OF AN
19 ILLEGITIMATE FINDING HERE. SO I'M HAPPY TO MAKE THAT
20 ADJUSTMENT AND GIVE HIM FOUR POINTS INSTEAD OF TWO FOR FAST
21 TRACK IF YOU MAKE THAT RECOMMENDATION.

22 MR. MASON: I'M AUTHORIZED ONLY TO MAKE A
23 RECOMMENDATION OF TWO POINTS, YOUR HONOR.

24 THE COURT: MAYBE IN THE FUTURE, MR. CROWLEY, THAT
25 OUGHT TO BE THE POINT OF NEGOTIATION. AS I SAID --

1 MR. CROWLEY: YOU MEAN DURING THE ONE WEEK WE HAVE
2 TO MAKE A DETERMINATION?

3 THE COURT: I WOULD JUST SAY, "LOOK, IT'S IN FRONT
4 OF HIM. HE LOOKS AT THESE CASES CAREFULLY IF IT GOES PAST TWO
5 POINTS. BUT THERE'S ANOTHER WAY WE CAN GET POINTS OFF. GIVE
6 ME FOUR ON THIS THING." AND MAYBE THEY'LL HAVE A DIFFERENT
7 WAY OF LOOKING AT IT.

8 MR. RAMIREZ, THE COMMENTS I MADE ABOUT MINOR ROLE
9 ARE NOT A REFLECTION ON YOUR LAWYER'S EFFORTS AT ALL. HE DID
10 A FABULOUS JOB IN GETTING THIS NEGOTIATION. I JUST DON'T
11 AGREE WITH IT. AS YOU WERE TOLD AT THE TIME OF THE PLEA, AT
12 THE END I HAVE TO PUT INDEPENDENT JUDGMENT TO THIS, AND I
13 HAVE. I'M NOT MAD. MR. CROWLEY HAS DONE EXACTLY WHAT HE WAS
14 SUPPOSED TO DO. HE'S TRIED TO REDUCE YOUR EXPOSURE DOWN TO
15 THE BARE MINIMUM, AND HE DID A GOOD JOB AT THAT.

16 SO THE COURT, AS I SAID, FINDS THAT NO MINOR ROLE IS
17 APPROPRIATE HERE.

18 I CAN'T RECALL.

19 WAS THIS FELLOW SAFETY VALVE ELIGIBLE?

20 MR. CROWLEY: YES, YOUR HONOR.

21 THE COURT: AND THERE IS A RECOMMENDATION FOR SAFETY
22 VALVE; RIGHT?

23 MR. MASON: YES, YOUR HONOR. HE HAS MET ALL FIVE
24 PRONGS.

25 THE COURT: SO FROM 40, WE GO DOWN TO 38. I DO

1 GRANT THE SAFETY VALVE ELIGIBILITY. I TAKE THREE ADDITIONAL
2 POINTS OFF FOR ACCEPTANCE, WHICH TAKES US TO 35. I TAKE TWO
3 ADDITIONAL POINTS OFF FOR FAST TRACK.

4 I DON'T HAVE ANY AUTHORITY, MR. CROWLEY, I THINK TO
5 EXCEED THE TWO POINTS ABSENT A GOVERNMENT MOTION. THAT'S THE
6 STATE OF THE CASE LAW IN THESE ADVISORY GUIDELINES.

7 DO YOU AGREE?

8 MR. CROWLEY: I AGREE IT'S THE STATE OF THE CASE
9 LAW, YES.

10 THE COURT: IN THE END, I FIND THAT HE'S A 33 UNDER
11 THE ADVISORY GUIDELINES.

12 HE'S IN CRIMINAL HISTORY CATEGORY 1. THE RANGE IS
13 135 TO 168.

14 LET ME TURN TO THE 3553 FACTORS NOW.

15 I'M NOT GOING TO BEAT YOU UP ANY MORE ABOUT HOW BAD
16 THIS WAS. IT'S A BAD SUBSTANCE TO BE INVOLVED IN, AND YOU
17 WERE INVOLVED IN IT FOR A LONG TIME. I HAVE TO ASSUME, AND I
18 THINK YOU DO NOW, THAT THE OTHER TRIPS YOU MADE WERE
19 METHAMPHETAMINE AND NOT MARIJUANA. AND I DON'T KNOW IF YOU
20 FOUND OUT ABOUT THAT SOMETIME BEFORE BEING ARRESTED ON THIS
21 CASE. BUT IF YOU DID, THAT SHOULD HAVE BEEN REASON TO STEP
22 AWAY FROM THIS THING NOTWITHSTANDING THE \$2,000 PER TRIP.

23 IN TERMS OF HISTORY AND CHARACTERISTICS, I DO FIND
24 EQUITIES HERE, PARTICULARLY IN HIS POST-ARREST CONDUCT AND
25 PERFORMANCE. MR. CROWLEY IS RIGHT THAT HE HAS REALLY STEPPED

1 UP TO THE PLATE.

2 I'VE GOT TO TELL YOU MAN TO MAN, MR. RAMIREZ, THAT I
3 APPRECIATE YOUR APPROACH TO THIS. I REMEMBER WHEN YOU PLED
4 GUILTY. YOU REALLY REITERATED PART OF THAT ATTITUDE TODAY
5 WHEN YOU SAID, "YOU KNOW WHAT, I DID THIS THING. I MADE A
6 MISTAKE. I'M NOT GOING TO GIVE ANY EXCUSES. I'M PREPARED TO
7 TAKE MY PUNISHMENT."

8 YOU ACKNOWLEDGED, I THINK, THE JAM THAT YOU GOT YOUR
9 FIANCEE INTO. THOSE THINGS ALL RESONATE WITH ME.

10 I ALSO TAKE INTO CONSIDERATION IN A POSITIVE WAY
11 THAT MUCH OF THE INFORMATION THAT IS AGGRAVATED ABOUT THIS
12 CASE IS KNOWN ONLY BECAUSE MR. RAMIREZ TOLD US ABOUT IT. I
13 THINK THAT'S WHAT YOU'RE SUPPOSED TO DO WHEN YOU PLEAD GUILTY.

14 THE DEFENDANT: TO BE HONEST.

15 THE COURT: WHEN YOU PLEAD GUILTY, YOU SAY, "OKAY.
16 I'M CAUGHT. HERE'S WHAT'S INVOLVED. THIS IS IT. JUDGE, DO
17 WITH IT WHAT YOU CAN. GIVE ME SOME CREDITS FOR BEING HONEST."
18 I'LL GIVE YOU THAT CREDIT TODAY.

19 I ROUTINELY GIVE TWO POINTS OFF FOR ROLE. IT WOULD
20 BE UNFAIR TO SAY BECAUSE I DISAGREE WITH THE ROLE ADJUSTMENT
21 IN THIS CASE THAT I'M GOING TO GIVE HIM NO CREDIT. SO I WOULD
22 ESSENTIALLY FIND, WITHOUT DOING IT UNDER THE GUIDELINES WHEN I
23 LOOK AT THE KINDS OF SENTENCES IMPOSED AS TO SIMILARLY
24 SITUATED DEFENDANTS, THAT THAT WOULD RESULT IN A FURTHER
25 TWO-POINT REDUCTION UNDER THE GUIDELINE LEVEL, WHICH WOULD

1 DROP THIS TO A 31. AND THE RANGE WOULD BE 108 TO 135 IF THAT
2 WERE THE CASE.

3 AGAIN, I EMPHASIZE, MR. CROWLEY, I'M NOT DOING THAT
4 UNDER THE GUIDELINES. BUT THERE IS A FACTOR THAT SAYS, "LOOK
5 AT THE KINDS OF SENTENCES IMPOSED IN OTHER CASES." AND AS YOU
6 KNOW AND I'VE ACKNOWLEDGED HERE, THE ROLE ADJUSTMENT IS A
7 PLEA-BARGAINING TOOL. UP TO TWO POINTS I GO ALONG WITH. IT
8 WOULD BE UNFAIR NOT TO GIVE HIM THE BENEFIT OF THAT. SO I
9 WILL TAKE THAT INTO ACCOUNT AS WELL.

10 IN THE END, AFTER CONSIDERING AGAIN THE NEED FOR
11 DETERRENCE IN THIS CASE -- ALTHOUGH I HOPE, MR. RAMIREZ,
12 WHAT'S IMPLICIT IN EVERYTHING YOU'VE SAID TO ME IS THAT YOU'RE
13 NOT GOING TO EVER DO ANYTHING LIKE THIS AGAIN --

14 THE DEFENDANT: NO, SIR.

15 THE COURT: -- I STILL THINK THERE'S A PURPOSE IN
16 GENERAL DETERRENCE SERVED.

17 THE COURT FINDS THAT THE MOST APPROPRIATE SENTENCE
18 HERE IS 87 MONTHS. I DO IMPOSE IN MR. RAMIREZ'S CASE AN
19 87-MONTH SENTENCE.

20 THAT'S TO BE FOLLOWED BY A PERIOD OF SUPERVISED
21 RELEASE, MR. RAMIREZ. YOU, AS A U.S. CITIZEN, ARE ON
22 SUPERVISED RELEASE FOR FIVE YEARS.

23 THERE IS A MANDATORY MINIMUM FIVE YEARS BECAUSE OF
24 THE --

25 THE PROBATION OFFICER: IT WOULD BE THREE OR FIVE.

1 THE COURT: I FIND FIVE YEARS IS APPROPRIATE. I
2 WOULD CONSIDER AN EARLY TERMINATION OF SUPERVISED RELEASE IF
3 THERE'S GOOD PERFORMANCE FOR THE FIRST THREE YEARS. BUT FOR
4 THE TIME BEING, I'M GOING TO SET IT AT FIVE.

5 HE'S NOT TO POSSESS FIREARMS, EXPLOSIVE DEVICES, OR
6 DANGEROUS WEAPONS.

7 HE'S TO PROVIDE COMPLETE DISCLOSURE OF PERSONAL AND
8 FINANCIAL BUSINESS RECORDS TO THE PROBATION OFFICER.

9 HE'S TO PARTICIPATE IN A PROGRAM OF DRUG OR ALCOHOL
10 ABUSE TREATMENT, INCLUDING DRUG TESTING AS DIRECTED BY THE
11 PROBATION OFFICER.

12 HE'S TO SUBMIT TO A SEARCH OF HIS PERSON, PROPERTY,
13 RESIDENCE, VEHICLE AT REASONABLE TIMES AND IN A REASONABLE
14 MANNER WHEN DIRECTED BY A PROBATION OFFICER.

15 THE LONG-TERM INVOLVEMENT -- RELATIVELY LONG-TERM
16 INVOLVEMENT IN DRUG-SMUGGLING ACTIVITY AND THE STEALTH THAT
17 WAS INVOLVED AND THE OVERALL EFFORT LEAD ME TO BELIEVE
18 ADDITIONAL RESTRICTIONS ON 4TH AMENDMENT RIGHTS ARE
19 APPROPRIATE DURING THE PERIOD OF SUPERVISED RELEASE. SO I
20 EXPAND THE SEARCH WAIVER -- SEARCH WARRANT WAIVER CONDITION TO
21 ANY REQUEST BY A COP, STATE, FEDERAL, OR LOCAL, TO SEARCH YOU,
22 YOUR HOUSE, YOUR CAR. YOU'VE GOT TO LET THEM DO IT. IF IT
23 COMES BACK TO ME THAT YOU SAID "OH, NO. GO GET A WARRANT,"
24 YOU'LL BE IN VIOLATION. SO ON SUSPICION BY A POLICE OFFICER,
25 YOU'RE TO SUBMIT TO A SEARCH.

1 TELL THE PROBATION OFFICER ALL VEHICLES YOU OWN,
2 OPERATE, OR HAVE AN INTEREST IN.

3 NOW, CONCERNING THE REPUBLIC OF MEXICO, IT APPEARS
4 MS. QUINTERO IS HEADED THERE. I'M GOING TO ORDER THAT YOU NOT
5 GO INTO MEXICO WITHOUT PERMISSION OF THE PROBATION OFFICER.
6 I'M GOING TO ASSUME IT WILL ONLY BE A DAY TRIP. AND YOU'LL
7 HAVE TO CALL BEFORE YOU LEAVE AND CALL BEFORE YOU COME BACK.

8 MR. RAMIREZ, IF YOU DO WELL AND THERE'S NO FOUL-UPS
9 ON SUPERVISED RELEASE, I'LL CUT THE TERM DOWN TO THREE YEARS
10 AFTER YOU'VE PERFORMED FOR THREE YEARS WITH NO FOUL-UPS.

11 I DECLINE TO IMPOSE A FINE. I DO IMPOSE A \$100
12 PENALTY ASSESSMENT.

13 THE GOVERNMENT HAD RECOMMENDED A SENTENCE NO LONGER
14 THAN 71 MONTHS. I'VE EXCEEDED THAT. HE HAS A RIGHT TO APPEAL
15 THE JUDGMENT AND SENTENCE PRONOUNCED BY THIS COURT.

16 YOUR NOTICE OF APPEAL HAS TO BE FILED WITHIN TEN
17 DAYS. IT HAS TO BE FILED IN THIS COURT. MR. CROWLEY WILL
18 HELP YOU DO THAT IF YOU DETERMINE THERE'S GROUNDS FOR APPEAL
19 THAT YOU WANT TO PURSUE OR THE CLERK OF THE COURT WILL HELP
20 YOU.

21 THERE IS ORDINARILY A PAYMENT TO APPEAL. BUT
22 BECAUSE YOU HAVE COURT-ASSISTED COUNSEL AND CAN'T AFFORD IT,
23 THAT FEE WILL LIKELY BE WAIVED. YOU CAN FILE A FREE APPEAL.

24 DO YOU UNDERSTAND YOUR RIGHT TO APPEAL?

25 THE DEFENDANT: YES, YOUR HONOR.

1 THE COURT: OKAY, MR. RAMIREZ.

2 MR. CROWLEY: YOUR HONOR, THERE WAS -- I WOULD
3 REQUEST A RECOMMENDATION FOR THE DRUG PROGRAM. THAT IS THE
4 ONE PART OF THE PROBATION REPORT I AGREED WITH.

5 THE COURT: I'LL MAKE THAT RECOMMENDATION.

6 IF YOU TAKE AND COMPLETE THAT 500-HOUR DRUG PROGRAM,
7 IT SHAVES A YEAR OFF THE SENTENCE IN YOUR CASE. YOU SHOULD
8 AVAIL YOURSELF OF THAT. IT WILL GIVE YOU SOME MORE
9 INFORMATION AND A COMMITMENT NOT TO GET INVOLVED IN THIS TYPE
10 OF THING AGAIN, I HOPE, AND THE BENEFIT OF HAVING AN
11 ADDITIONAL YEAR SHAVED OFF THE SENTENCE.

12 ANYTHING ELSE?

13 MR. CROWLEY: NO, YOUR HONOR. THANK YOU.

14 THE COURT: GOOD LUCK, MR. RAMIREZ. NO MORE
15 PROBLEMS, I HOPE.

16 --000--

17 I HEREBY CERTIFY THAT THE TESTIMONY
18 ADDUCED IN THE FOREGOING MATTER IS
19 A TRUE RECORD OF SAID PROCEEDINGS.

20
21 S/EVA OEMICK 5-15-08

22 EVA OEMICK DATE
23 OFFICIAL COURT REPORTER
24
25